

**Enrolled Minutes of the Eighty-Fifth Regular or Special Meeting
For the Twenty-Sixth Highland Town Council
Regular Meeting
Monday, June 13, 2011**

Study Session. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, June 13, 2011 at 6:45 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, Konnie Kuiper, and Brian Novak were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council discussed the imminent agenda of the regular meeting.
2. Councilor Kuiper and the Town Council President had an information conversation regarding the Advisory Board of Zoning Appeals matter that was on the agenda for the consideration of the Town Council.

The study session ended at 6:59 O'clock p.m.

Regular Meeting. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, June 13, 2011 at 7:00 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Council President Brian Novak, presided and the Town Clerk-Treasurer was present to memorialize the proceedings. The meeting was opened with Councilor Dan Vassar reciting the Pledge of Allegiance to the Flag of the United States of America and offering a prayer.

Roll Call: Present on roll call were Councilors Bernie Zemen, Mark Herak, Dan Vassar, Konnie Kuiper and Brian Novak were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Rhett Tauber, Town Attorney; John M. Bach, Public Works Director; Peter T. Hojnicki, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; William R. Timmer, CFOD, Fire Chief; Alex M. Brown, CPRP, Parks and Recreation Superintendent; and Cecile Petro, Redevelopment Director were present.

Also Present: Lisa Gauthier, Community Events Commission member was also present.

Minutes of the Previous Session

The minutes of the regular meeting of 23 May 2011 were approved by general consent.

Special Orders

1. **Advisory Board of Zoning Appeals Docket:** Petition for a Use Variance for property located at **2815 Norman Street, Highland**, to allow the its use as a Home Day Care, in property currently zoned as R-1 Single Family Residential District. Petitioner: Cheryl Giordano. The Advisory Board of Zoning Appeals by a vote of five (5) in favor and 0 opposed acted to **favorably recommend the request for the use variance**. The ABZA acted at its meeting of 27 April 2011. The findings of fact were memorialized and the board approved the facts in written form at its meeting of 25 May 2011. (90 days ends 26 July 2011.).

*Pursuant to IC 36-7-4-918.6, the Town Council may either **accept the favorable recommendation** and grant the requested use variance or it may **reject (over rule) the recommendation** and deny the use variance.*

Councilor Zemen moved to accept the favorable recommendation and to grant the use variance as requested. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The use variance was granted.

Staff Reports: The Council received the following reports as information for the record:

• **Building & Inspection Report for May 2011**

Permit Type	Number.	Residential	Commercial	Est. Cost	Fees
Commercial	0	0	0	\$0.00	\$0.00
Buildings:					
Commercial	4	0	4	\$58,940.00	\$1,489.00
Additions or					
Remodeling:					
Signs:	1	0	1	\$576.00	\$254.50
Single Family:	1	1	0	\$196,500.00	\$2,399.00
Duplex / Condo:	0	0	0	\$0.00	\$0.00
Residential	4	4	0	\$138,925.00	\$2,296.50
Additions:					
Residential	78	78	0	\$348,663.00	\$7,358.00
Remodeling:					
Garages:	1	1	0	\$21,900.00	\$437.50
Sheds:	1	1	0	\$500.00	\$133.50
Decks & Porches:	10	10	0	\$32,480.00	\$1,876.50
Fences	18	18	0	\$66,866.00	\$2,049.00
Swimming pools:	7	7	0		\$511.00
Drain Tile	3	3	0	\$22,675.00	\$450.00
/Waterproofing					
Misc.	6	5	1	\$0.00	\$595.00
Total:	134	128	6	\$888,025.00	\$19,849.50
Electrical	24	22	2		\$2,223.50
Permits					
Mechanical	12	1	11		\$973.00
Permits					
Plumbing	5	4	1		\$719.00
Permits					
Water Meters	1	1	0		\$230.00
Water Taps	1	1	0		\$200.00
Sewer/Storm	2	2	0		\$600.00
Taps					
Total Plumbing	9	8	1		\$1,749.00
Permits:					

May Code Enforcement:

Warnings: 169

Citations: 11

April Inspections:

Building: 38 Electrical: 42 Plumbing: 06 Electrical Exams: 03

• **Fire Department Report for May 2011**

	Month	Y.T.D.
General Alarms	5	47
Car Fires	0	5
Still Alarms	7	24
Paid still alarms	1	
Total:	13	

• **Workplace Safety Report for May 2011**

There were three incidents in May. The following incident summary was filed:

Department	Injuries this Month	Year to Date 2011	Total in 2010	Restricted Days 2011	Lost Workdays This Year	Restricted Days Last Year (2010)	Lost Workdays Last Year (2010)
Parks	0	0	2	0	0	25	3
Fire	0	0	2	0	0	0	0
Police	0	2	9	0	0	39	23
Street	2	3	1	0	0	0	0
Water & Sewer	0	1	1	4	77	88	0
Maint.	0	0	1	0	0	68	0
Other	1	2	2	0	0	0	0
TOTALS	3	8	18	4	77	220	26

Effective January 1, 2002, OSHA changed the record keeping guidelines. The municipality now counts the number of days lost from the day after the injury until the employee returns to work. Weekend, holidays, vacation days or other days scheduled off are included in the lost days count to a maximum of 180 days.

Unfinished Business and General Orders:

- 1. Introduced Enactment No. 2011-14:** An Enactment Appropriating Additional Moneys in Excess of the Annual Budget for the Office of the Metropolitan Police Department of the Corporation General Fund. *(Public Hearing was conducted at meeting of May 23, 2011. Councilor Herak introduced and filed the enactment. There was no further action.)*

Councilor Herak moved the passage and adoption of Enactment No. 2011-14. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The enactment was adopted.

TOWN OF HIGHLAND APPROPRIATION ENACTMENT Enactment No. 2011-14

AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET FOR OFFICE OF THE METROPOLITAN POLICE DEPARTMENT OF THE CORPORATION GENERAL FUND, ALL PURSUANT TO I.C. 6-1.1-18, I.C. 36-5-3-5, ET SEQ.

WHEREAS, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Office of the Town Council of the Corporation General Fund**;

WHEREAS, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levy set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

NOW, THEREFORE BE IT ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Metropolitan Police Department of the Corporation General Fund** and for the purposes herein specified, subject to the laws governing the same:

CORPORATION GENERAL FUND:

Metropolitan Police Department

Increase Acct. No. 210.01:	Gasoline:	<u>\$ 37,534.03</u>	
	<i>Total Series:</i>	<u>\$ 37,534.03</u>	
	<i>Total Department:</i>	\$ 37,534.03	
	<i>Total Increase for Fund:</i>	<u>\$ 37,534.03</u>	

Section 2. That the Clerk-Treasurer is hereby authorized and instructed to inform the Indiana Department of Local Government Finance of this action and that these moneys be made available for expenditure **subject to an order** of the Commissioner, pursuant to IC 6-1.1-18.

Section 3. That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 23rd Day of May 2011. Consideration on the same day or at same meeting of introduction was not conducted, pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 13th Day of June 2011, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Brian J. Novak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Introduced Enactment No. 2011-18:** An Enactment Appropriating Additional Moneys in Excess of the Annual Budget for the Parks Non Reverting Capital Fund. *(Public Hearing was conducted at meeting of May 23, 2011. Councilor Zemen introduced and filed the enactment. There was no further action.)*

Councilor Herak moved the passage and adoption of Enactment No. 2011-18. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The enactment was adopted.

TOWN OF HIGHLAND
APPROPRIATION ENACTMENT
ENACTMENT NO. 2011-18

AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET for the PARKS NON-REVERTING CAPITAL FUND, PURSUANT TO I.C. 6-1.1-18, I.C. 36-5-3-5, AND I.C. 36-10-3 ET SEQ.

WHEREAS, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Parks Non-Reverting Capital Fund**;

WHEREAS, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

NOW, THEREFORE BE IT ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Parks Non-Reverting Capital Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

PARKS NON-REVERTING CAPITAL FUND

Acct. No. 4XX.XX Fitness Equipment Lincoln Center:	\$ 260,000.00
Acct. No. 4XX.XX Furniture & Fixtures Lincoln Center:	\$ 275,000.00

Total Series:	\$ 535,000.00
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Total for Fund:	<u>\$ 535,000.00</u>
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Section 2. That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies be made available for expenditure pursuant to I.C. 6-1.1-18.

Section 3. That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 23rd Day of May 2011. Consideration on the same day or at same meeting of introduction was not sought, pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 13th Day of June 2011, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Brian J. Novak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. **Introduced Ordinance No. 1494:** An Ordinance to Amend Section § 177.10 of Chapter 177 of the Highland Municipal Code, regarding Public Works Projects, all pursuant to I.C. 36-1-4, IC 36-1-5 and IC 36-9-25 et sequitur. *(Councilor Herak introduced and filed the enactment at the meeting of May 23, 2011. There was no further action.)*

Councilor Kuiper moved the passage and adoption of Ordinance No. 1494. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The enactment was adopted.

ORDINANCE No. 1494
of the
TOWN of HIGHLAND, INDIANA

An Ordinance to Amend Section § 177.10 of Chapter 177 of the Highland Municipal Code, regarding Public Works Projects, all pursuant to I.C. 36-1-4, IC 36-1-5 and IC 36-9-25 et sequitur.

Whereas, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

Whereas, The Town of Highland, is a municipality located in Lake County which operates a Government, which is governed by the provisions of IC 36-5 et seq.; and,

Whereas, The Town of Highland, by and through its Town Council adopted Ordinance No. 1446, enacted and restated its Public Works Projects Code, first introduced on December 14, 2009 and finally passed on July 19, 2010; and,

Whereas, The Town of Highland, through its Town Council now wishes to still further perfect its own organization make certain amendments to the Highland Municipal Code, regarding public works and contractors , pursuant to IC 36-1-12 and other relevant law,

Now, Therefore, Be it hereby ordained by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Highland Municipal Code is amended by the repeal of Section §177.10 of the Highland Municipal Code in its entirety, and to be amended by a successor section also to be named Section §177.10, which shall read as follows:

§ 177.10 ADDITIONAL PROVISIONS REGARDING RESPONSIBLE AND RESPONSIVE BIDDERS

(A) In addition to the provisions of Section § 177.09 (J) and (K), in order to determine whether a contractor is a "responsible and responsive bidder" for the award of a public works contract, the contractor must submit the following information and supporting documentation verified under oath on a form designated by the Town, as a "**Responsible and Responsive Bidder Affidavit of Compliance**", in order for the bid to be accepted:

- (1) Documents evidencing compliance with all applicable laws and ordinances pre-requisite to doing business in Indiana;
- (2) A valid federal employer tax identification number or, if an individual, a valid social security number;
- (3) A statement of compliance with provisions of Section 2000e of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions);
- (4) Disclosure of the name and address of each subcontractor from whom the contractor has accepted a bid and/or intends to hire on any part of the project. Further, each such subcontractor shall be required to adhere to the requirements set forth herein as though it were bidding directly to the Town. Each contractor shall submit all subcontractors' information and supporting documentation to the Town no later than the date and time of the contract award;
- (5) Certificates of insurance showing the following coverage necessary for the project:
 - (a) General liability (\$1 million minimum coverage);
 - (b) Worker's compensation (statutory limits); and
 - (c) Automobile liability.

Amounts not herein listed shall be determined by the awarding agency and set forth in the bid specifications;

- (6) The following statement of compliance:
 - (a) A statement of compliance with all provisions of the Indiana Common Construction Wage law (Indiana Code 5-16-7-1 et seq.), and all rules and regulations therein, for the past five (5) years.

- (b) Such statement shall also provide that the contractor has reviewed the Common Construction Wage law (or federal Davis-Bacon and related Acts), has reviewed and agrees to pay the applicable common construction wage (or prevailing wage rate) as set forth in the common construction wage rate schedule (or prevailing wage determination) attached to the bid specifications, and will strictly comply with the Common Construction Wage law (or federal Davis-Bacon and related Acts) and related requirements.
 - (7) Evidence of participation in apprenticeship and training programs applicable to the work to be performed on the project which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. The required evidence includes a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project;
 - (8) A copy of a written plan for employee drug testing;
 - (9) A statement that individuals who will perform work on the public works project on behalf of the contractor are properly classified as either (i) an employee or (ii) an independent contractor under all applicable state and federal laws and local ordinances;
 - (10) A statement that all employees are (i) covered under a current worker's compensation insurance policy and (ii) properly classified under such policy. If the contractor is insured with a carrier, the evidence of worker's compensation insurance shall be a copy of the "Information Page" of the contractor's worker's compensation policy and any continuation of that Information Page which include the name and address of the insured, as well as the class codes the compensation premium is based on and the total estimated remuneration per class code;
 - (11) A statement listing all employees who will perform work on the public works project and evidence that all listed employees are covered by a health and welfare plan and a retirement plan. The required evidence includes a copy of the summary plan description(s) or similar document(s); and
 - (12) Documents evidencing any professional or trade license required by law or local ordinance for any trade or specialty area in which the contractor is seeking a contract award. Additionally, the contractor must disclose any suspension or revocation of such license held by the company, or of any director, officer or manager of the company.
- (B) **Contractors, or first tier Subcontractors, submitting bids to the Town of Highland, or any of its executive departments or political subdivisions, are required to submit the form designated "Responsible and Responsive Bidder – Affidavit of Compliance" with their bid submission, only once in any calendar year, unless material changes in Contractor status occur, as described in subdivision (C) below. Thereafter, the form will be kept on file in the Office of the Clerk-Treasurer and will remain valid for any subsequent bids made during that calendar year.**
- ~~(B)~~ (C) Any material changes to the contractor's status, at any time, must be reported in writing to the Town within fourteen (14) days of its occurrence. Failure to comply with this requirement is grounds for the contractor to be deemed a non-responsible and non-responsive bidder.
- ~~(C)~~ (D) A contractor who has been found by the Indiana Department of Labor to be in violation of the Common Construction Wage law twice within a three (3) year period shall be deemed not to be a Responsible and Responsive Bidder for two (2) years from the date of the latest finding;
- ~~(D)~~ (E) If all of the above criteria are otherwise satisfied the Town may also consider the following factors, in its discretion, in awarding the project if such information is requested:
- (1) Statements as to past performance, which shall give an accurate and complete record of all public works projects completed in the past three (3) years by the contractor. Such statements shall include the names and addresses of the projects, original contract price, final contract price, and the names of all subcontractors used, if applicable, and a statement as to compliance with completion deadlines; and/or
 - (2) Any determinations by a court or governmental agency for violations of federal, state, or local laws including but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), the National Labor Relations Act (NLRA), or federal Davis-Bacon and related Acts.

Section 2. Schedule of Implementation. The provisions of this ordinance shall become and be in full force and effect from and after the date of its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication in the manner provided by IC 36-1-5 and IC 5-3-1, if applicable.

Introduced and Filed on the 23rd day of May 2011. Consideration on same evening of introduction was not considered, pursuant to IC 36-5-2-9.8.

ADOPTED this 13th day of June 2011 by the Town Council of the Town of Highland, Lake County, Indiana, by a vote of 5 in favor of adoption and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

4. **Proposed Ordinance No. 1495:** An Ordinance Amending the Highland Municipal Code by Amending Chapter 130 and Chapter 150 to Prohibit Smoking in the Parks and Properties of the Parks and Recreation Department, all Pursuant to IC 36-1-3, IC 36-1-4, IC 36-8 and IC 36-9 et Seq.

By general consent, this ordinance was not taken up for action by the Town Council.

5. **Enactment No. 2011-20:** An Enactment to Approve Overtime Payments for Exempt Salaried Personnel as set forth in Section 3 OF THE Wage and Salary Ordinance, Waiving Section 2.01 OF THE Compensation AND Benefits Ordinance, and Suspending Section 10 (e) (3) and (4) of Salary Ordinance in order to authorize a Particular Pay rate. (*Permits Commander R. Potesta to be paid at rate of \$44.13 per hour for patrol time.*)

Councilor Kuiper introduced moved the consideration at the same meeting of introduction of Enactment No. 2011-20. Councilor Zemen seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment could be considered at the same meeting of its introduction.

Councilor Kuiper moved the passage and adoption at the same meeting of introduction of Enactment No. 2011-20. Councilor Zemen seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The Enactment was adopted at the same meeting of its introduction.

TOWN OF HIGHLAND
ENACTMENT NO. 2011-20

AN ENACTMENT TO APPROVE OVERTIME PAYMENTS FOR EXEMPT SALARIED PERSONNEL as SET FORTH IN SECTION 3 of the WAGE AND SALARY ORDINANCE, WAIVING SECTION 2.01 of the COMPENSATION and BENEFITS ORDINANCE, and SUSPENDING SECTION 10 (E) (3) and (4) OF SALARY ORDINANCE IN ORDER TO AUTHORIZE A PARTICULAR PAY RATE.

WHEREAS, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

WHEREAS, Section fifteen of that chapter specifically provides that a unit of government may fix the level of compensation of its officers and employees; and

WHEREAS, I.C. 36-5-3-2 further provides in pertinent part that the town legislative body shall provide reasonable compensation for the other town officers and employees;

WHEREAS, One Exempt Salaried Officer was authorized and directed to work a special detail, providing patrol by police car, unrelated to a special event, but rather undertaken as a particular law enforcement initiative;

WHEREAS, The current wage and salary ordinance provides for no particular rate for overtime worked for this, except as may be experienced under the terms of Section § 4.03.02 of the Compensation and Benefits Ordinance, which reads: *"Patrol Division Police Officers work on a twenty-four day work cycle beginning with the first day of the cycle on a 4 days on and 2 days off schedule with an 8.5 hour work day, 39.88 hour work week. Pursuant to the Fair Labor Standards Act (FLSA), the maximum number of hours to be worked prior to time and one-half compensation for overtime is 147 hours for the twenty-four day work cycle;*

WHEREAS, Absent action by the Town Council, the current language governing such pay for such an assigned detail, when worked by exempt salaried persons, is silent, and there is no guidance about what schedule or work cycle exempt salaried employees are subject to, since overtime pay is not regularly payable to exempt salaried employees; and,

WHEREAS, The Metropolitan Police Chief has recommended that the Town Council authorize for payments to be made to the particular exempt salaried personnel, to be based upon actual hours worked on the detail at a rate of 1.5 times the exempt salaried officer's base pay plus longevity; and,

WHEREAS, The Town Council now desires to act to permit the pay as recommended,

NOW, THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the provisions of Section 10 (e) (3) of the Wage and Salary Ordinance as amended, particularly reading *"Overtime provisions of the Compensation and Benefits Ordinance notwithstanding, the following special assignment will be paid at 1.5 times the composite rate (base rate plus longevity rate) of the assigned officer for hours performing the special assignment,*

provided such rate is lawful and authorized under the terms of the supporting grant", shall be temporarily suspended and modified to permit an exempt salaried worker to be paid at an overtime rate at 1.5 times the assigned officer's composite (Commander) rate for work NOT supported by a grant and for which an non-exempt officer would usually be assigned;

Section 2. That the provisions of Section 10 (e) (4) of the Wage and Salary Ordinance as amended, particularly reading, *"No rate of pay may be fixed for any regular duty or special detail or described employment, regardless of the source of funds, that has not been authorized or provided for in this Wage and Salary Ordinance as amended in effect or the Compensation and Benefits Ordinance as amended and in effect,"* shall be temporarily suspended and waived for the purpose of permitting **R. Potesta, CID Commander**, to be paid at the hourly rate of **\$44.13** for the eight (8) hours worked in uniform patrol duty in the **month of May 2011**, which is 1.5 times the calculated hourly rate plus longevity for the bi-weekly salary associated with the position of Division Commander, a senior administrative position;

Section 3. That under the terms of Section § 04.03.01 of the Compensation and Benefits Ordinance, which provides that *"exempt salaried employees will not receive overtime pay or compensatory time off, unless specifically authorized by the Town Council..."*, and Section § 2.01 which identifies the position of Commander in the Police Department as an Exempt position under the terms of the FLSA, *thereby not eligible for overtime payments*, the adoption of this enactment shall be approval of overtime pay for the exempt salaried employee herein identified;

Section 4. That the forgoing action is limited to the instance herein described and the provisions of Section 10 of the Wage and Salary Ordinance and Sections § 2.01 and § 4 of the Compensation and Benefits Ordinance otherwise remain in full force and effect;

Section 5. That the Clerk-Treasurer shall have authority to implement within a reasonable time those provisions regarding wage changes occurring between the effective dates set forth retroactively in this ordinance and the date of its passage and adoption.

Introduced and Filed on the 13th day of June 2011. Consideration on same day or at same meeting of introduction sustained a vote of 5 in favor and a vote of 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 13th day of June 2011, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

6. Action to approve overtime payments for Exempt Salaried Personnel, pursuant to Section 3 of Ordinance No. 1375 the Wage and Salary Ordinance, as amended and Section §4.03.01 of the Compensation and Benefits Ordinance. This waives the provisions of Section § 2.01 of the Compensation and Benefits Ordinance.

6.1 The Metropolitan Police Chief requests favorable action for R. Potesta, who is an exempt salaried employee, and investigations division commander, in the amount of \$200 for work associated with Highland Grove Mall Special Security.

Councilor Herak moved the approval of the requested overtime for Commander Potesta. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The overtime payment for Commander Potesta was approved.

6.2 The Metropolitan Police Chief requests favorable action for P. Vassar, who is an exempt salaried employee, and investigations division commander, in the amount of \$100 for work associated with Highland Grove Mall Special Security.

Councilor Herak moved the approval of the requested overtime for Assistant Chief Vassar. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives, no negatives, and one abstention. With Councilors Zemen, Herak, Kuiper and Novak voting in the affirmative and Councilor Vassar abstaining, the motion passed. The overtime payment for Assistant Chief Vassar was approved.

7. Action to approve appointment or employment of full-time employee, pursuant to Section §3.03 of the Compensation and Benefits Ordinance.
7.1(a) The Public Works Director requests the approval of the appointment for hire of Rick Steyer to be employed full-time in the position of Mechanic, at the rate of \$16.63 per hour, as provided in the wage and salary ordinance.

Councilor Vassar moved and Councilor Kuiper seconded to approve the hiring of Rick Steyer as a full-time mechanic at the rate of \$16.63 per hour. Upon a roll call vote, there were five affirmatives and no neatives. The motion passed. Mr. Steyer was hired.

8. Action to approve pay for employee who is temporarily replacing another employee at a higher grade level, after thirty (30) full days in the position, pursuant to Section § 4.01 of the Compensation and Benefits Ordinance.

8.1(a) The Metropolitan Police Chief requests the approval of pay at a higher grade level for Police Corporal Christopher M. Balbo to be acting Sergeant to be retro-active to **April 3, 2011**. Cpl Balbo was given his brevet appointment effective March 1, 2011 but was filed on May 12, 2011. (*The pay at a higher level was approved at meeting of May 23 for the same month in which the matter was filed- back to May 1st. The Police Chief requests that the pay be retroactive to April 3rd, outside the month of notice as it was filed late. The Town Council will need to suspend the Wage and Salary Ordinance No. 1375 as Section 2. (b) provides in pertinent part that "Such other increases or change of biweekly or hourly pay executed pursuant to this ordinance shall not be made effective earlier than the month in which it is properly filed." This is achieved by passage and adoption of **Enactment N. 2011-21.***)

8.1(b) **Enactment No. 2011-21:** An Enactment to Approve Pay For Employee Who Is Temporarily Replacing Another Employee At A Higher Grade Level, After Thirty (30) Full Days In The Position, Pursuant To Section § 4.11 Of The Compensation And Benefits Ordinance, Waiving Section 2 (B) of the Wage and Salary Ordinance, in order to authorize a Particular Pay Rate Retroactive to a date earlier than the Month in which the Matter was filed.

Councilor Kuiper introduced moved the consideration at the same meeting of introduction of Enactment No. 2011-21. Councilor Herak seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The Enactment could be considered at the same meeting of introduction.

Councilor Kuiper moved the passage and adoption at the same meeting of introduction of Enactment No. 2011-21. Councilor Herak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The Enactment was adopted at the same meeting of introduction.

TOWN OF HIGHLAND
ENACTMENT NO. 2011-21

AN ENACTMENT TO APPROVE PAY FOR EMPLOYEE WHO IS TEMPORARILY REPLACING ANOTHER EMPLOYEE AT A HIGHER GRADE LEVEL, AFTER THIRTY (30) FULL DAYS IN THE POSITION, PURSUANT TO SECTION § 4.11 OF THE COMPENSATION AND BENEFITS ORDINANCE, WAIVING SECTION 2 (b) OF THE WAGE AND SALARY ORDINANCE, IN ORDER TO AUTHORIZE A PARTICULAR PAY RATE RETROACTIVE TO A DATE EARLIER THAN THE MONTH IN WHICH THE MATTER WAS FILED.

WHEREAS, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

WHEREAS, Section fifteen of that chapter specifically provides that a unit of government may fix the level of compensation of its officers and employees; and

WHEREAS, I.C. 36-5-3-2 further provides in pertinent part that the town legislative body shall provide reasonable compensation for the other town officers and employees;

WHEREAS, One Exempt Salaried Officer was authorized and directed to work a special detail, providing patrol by police car, unrelated to a special event, but rather undertaken as a particular law enforcement initiative;

WHEREAS, The current wage and salary ordinance provides under the terms of Section § 2 (b) in pertinent part: "*... increases or change of biweekly or hourly pay executed pursuant to this ordinance shall not be made effective earlier than the month in which it is properly filed;*"

WHEREAS, The current compensation and benefits ordinance provides under the terms of Section § 4.11: "*If a regular full time employee is assigned to temporarily replace another employee at a higher grade-level for an extended period of time, that employee will begin to receive a greater rate of pay after completing thirty (30) calendar days in that position. The actual rate will be subject to approval by the Town Council. All other benefits remain the same.*"

WHEREAS, The Metropolitan Police Chief, having filed the request to approve the increase in pay for working 30 or more days in a higher pgrad position, in May 2011, could only be permitted administratively to make this effective no earlier than the month in which the change was requested, has requested that the Town Council authorize for payments to

be made to the particular exempt salaried personnel, to be retroactive to April 3, 2011, which is thirty or more days after the particular officer had been serving in the acting position of a higher pay grade; and,

WHEREAS, The Town Council now desires to act to permit the retroactive pay as recommended,

NOW, THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the provisions of Section 2(b) of the Wage and Salary Ordinance as amended, particularly reading in pertinent part: "... increases or change of biweekly or hourly pay executed pursuant to this ordinance *shall not be made effective earlier than the month in which it is properly filed;*", shall be temporarily suspended and modified to permit a qualified worker to be paid at the higher rate of pay for serving in the higher pay grade for a period in excess of thirty days, and may be paid retroactive to April 3, 2011, which is outside the month in which the personnel notice was properly filed;

Section 2. That the action set forth and approved in Section 1 of this ordinance will formally permit **Corporal C. Balbo**, to be authorized his pay to be at the rate of acting Sergeant effective **April 3, 2011**, which is outside the month in which in the request for the higher pay was filed, going from bi-weekly rate of \$2,067.86 plus longevity to the rate of \$2,190.68 plus longevity;

Section 3. That the forgoing action is limited to the instance herein described and the provisions of Section 2(b) of the Wage and Salary Ordinance otherwise remain in full force and effect;

Section 4. That the Clerk-Treasurer shall have authority to implement within a reasonable time those provisions regarding wage changes occurring between the effective dates set forth retroactively in this ordinance and the date of its passage and adoption.

Introduced and Filed on the 13th day of June 2011. Consideration on same day or at same meeting of introduction sustained a vote of 5 in favor and a vote of 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 13th day of June 2011, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**Comments from the Town Council Members
(For the Good of the Order)**

- **Councilor Bernie Zemen:** • *Park and Recreation Board Liaison Lake County Solid Waste Management District Board of Directors • President's designee to Chair the Select Centennial Commission • Chamber of Commerce, Liaison • Redevelopment Commission Liaison.*

Councilor Zemen recognized the Parks and Recreation Superintendent who reported that the summer concerts at Main Square Program was underway.

Councilor Zemen recognized the Redevelopment Director who thanked the Town Council for its action at the meeting of May 23, in which it approved the order of the Plan Commission approving the Redevelopment Plan as amended. She noted that a successor plan for a newly established Redevelopment Area, for Indianapolis Boulevard, would likely be presented in July.

- **Councilor Mark Herak:** • *Budget and Finance Chair • Liaison to the Board of Waterworks Directors • Liaison to the Board of Sanitary Commissioners.*

Councilor Herak reported that owing to the resignation of Director Fred Wanicki, there was an opening on the Board of Waterworks Directors and encouraged persons to apply.

Councilor Herak also commended the Girls Doubles Team for Tennis winning at State Tournament.

- **Councilor Dan Vassar:** • *Plan Commission, member.*

Councilor Vassar recognized the Building Commissioner who offered a brief survey of matters under consideration before the Plan Commission.

Councilor Vassar reported on an event sponsored by Highland Little League at Markley Park that welcomed home Army Specialist Dan Spretnjak. He also thanked the Town Council President for his proclamation designating it Dan Spretnjak Day.

- **Councilor Konnie Kuiper:** • *Fire Department, Liaison • Town Board of Metropolitan Police Commissioners, Liaison.*

Councilor Kuiper recognized the Fire Chief who reported that the recently purchased Fire Trucks were in service.

- **Councilor Brian Novak:** • *Advisory Board of Zoning Appeals, Liaison • Chairman, Board of Police Pension Trustees • Municipal Executive.*

Town Council President commented favorably on the recent Memorial Day ceremony conducted at Main Square and commended the Community Events Commission as organizers.

Comments from the Public or Visitors

1. Ms. Sue Chandler, 2047 Bluebird Lane, Highland, reporting that her sidewalk was recently repaired, pursuant to an inquiry and expressed appreciation. She also inquired whether or not the Town could assist her with removal or other remedy of a tree in her parkway, that has a root apparently causing the driveway to heave up.
2. Mr. Ted Oberc, 2704 Lincoln, Highland, commended the conditions of streets and thanked Mr. Bach for his hand in it.
2. Mr. Tom Black, 3515 Garfield, Highland, suggested that smoking ban over all properties and buildings of the Parks and Recreation Department, be modified to create a few designated areas in which smoking would be permitted.

Payment of Accounts Payable Vouchers. There being no further comments from the public or visitors, Councilor Herak moved to allow the vendors accounts payable vouchers as filed on the pending accounts payable docket, covering the period May 24 , 2011 through to June 13, 2011 as well as the Payroll Docket of May 20, 2011. Councilor Vassar seconded. Upon a vote *viva voce*, the motion passed. The accounts payable vouchers for vendors and payroll were allowed and the clerk-treasurer was authorized to make payment.

Vendors Accounts Payable Docket:

General Fund, \$508,033.71 Motor Vehicle Highway and Street (MVH) Fund, \$37,409.39; Local Road and Street (LRS) Fund, \$11,132.00; Forfeited and Seized Assets Fund, \$1,710.89; Law Enforcement Cont. Education and Supply Fund, \$2,161.41; Flexible Savings Agency (FSA) Fund, \$1,223.30; Insurance Premium Fund, \$130,135.68; Information and Communications Technology Fund, \$7,487.69; Civil Donation Fund, \$1,963.29; Special Events Non Reverting Fund, \$40.00; Special Centennial Commission Fund, \$200.00; Police Pension Fund, \$58,310.24; Municipal Cumulative Capital Development Fund, \$70,887.26; Traffic and Law Violations Agency Fund, \$20,359.00; Safe Neighborhood Grant Fund, \$13,728.97; Municipal Cumulative Street Fund, \$3,515.00; Sexual Predator Grant Fund, \$13,255.51; Gaming Revenue Sharing

Fund, \$22,062.42; Corporation Capital Fund, \$13,155.35; Special Public Safety Fund, \$1,325.00; Total: \$917,896.11.

May 20 Payroll Payable Docket:

Council, Boards and Commissions, \$8,392.00; Office of the Clerk-Treasurer, \$12,656.58; Metropolitan Police Department: \$95,951.63; Building and Inspection: \$6,713.62; Public Works Department (Agency), \$51,484.52; Fire Department, \$2,822.55; Total: \$236,277.31.

Adjournment. Councilor Zemen moved that the plenary meeting be adjourned. Councilor Vassar seconded. Upon a vote *viva voce*, the motion passed. The regular meeting of the Town Council of Monday, June 13, 2011 was adjourned at 7:53 O'clock p.m.

Study Session. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session following the regular meeting on Monday, June 13, 2011 at 8:00 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, Konnie Kuiper, and Brian Novak were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Also present: Assistant Chief Pat Vassar, Commander George Georgeff, Chief Pete Hojnicky, and Retired Police Sergeant Tom Kerr, all of the Highland Metropolitan Police Department, were present.

General Substance of Matters Discussed.

1. The Town Council, Clerk-Treasurer, Assistant Chief Vassar, Commander Georgeff and Chief Hojnicky discussed a proposal that would permit an increase to the base pay for a First Class Patrol Officer in order allow for increases to the current retirees of the 1925 Fund. It was represented that the proposal was based upon a similar approach taken in City of Kokomo and Anderson, in which an increased amount of compensation would be given to all officers, proposed in the current instance at \$5,000, that would be then the amount that would be defined as employee group insurance premium. It was further proposed that the increased costs would be supported by an amount identified in the 1925 Pension Fund, as the property tax receivable due at December 31, 2008 for that year and the unobligated cash balance on that date. This balance would be used to pay the increased employers costs for the 1977 pension. Details of the proposal were presented in writing to the Town Council and Clerk-Treasurer.

The discussion included a concern whether or not the funding identified was a sustainable one, long term. It was further discussed that the unobligated cash balance in the 1925 Pension Fund, as well as the tax receivable at December 31, 2008, was being maintained to support the known death benefit that would be owing for the remaining retirees of the 1925 plan and for reasonable operating balance or cash reserve.

The discussion included consideration of a reduction in uniform allowance being taken by officers that would fund any costs associated with a plan to increase the pensions for the 1925 Pension retirees.

It was suggested by the Clerk-Treasurer that he meet with some of the police department representatives and determine if a sustainable plan that would be agreeable to all could be put forth for future presentation to and consideration by the Town Council.

Adjournment. There being no further matters to discuss, the study session following the regular plenary meeting of the Town Council of Monday, June 13, 2011 was adjourned at 8:56 O'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer